

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ALLAN WHITE,

Plaintiff,

vs.

Case No. 02-CV-71710

HARRY TRAPP, and TOM PHILLIPS,

HON. AVERN COHN

Defendants.

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**ORDER DENYING DEFENDANTS' MOTION TO TAX COSTS**

This is a pro se prisoner civil rights case which was tried to a jury. The jury found for defendants. Before the Court is defendants' motion to tax costs, requesting that the Court tax costs against plaintiff in the amount of \$417.20. Under both the Federal Rules of Civil Procedure and the Prison Litigation Reform Act, the taxing of costs is a matter within the Court's discretion. See Fed. R. Civ. P. 54(d)(1) and 28 U.S.C. § 1915(f)(1). Moreover, a prisoner's ability to pay can no longer be considered in determining whether to tax costs. See Talley-Bey, Jr. v. Knebl, 168 F.3d 884, 886 (6<sup>th</sup> Cir. 1999).

Here, the Court, in its discretion, finds that taxing costs is not warranted.

Accordingly, defendants' motion to tax costs is DENIED.

SO ORDERED.

Dated: September 29, 2006

s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to the parties of record on this date, September 29, 2006, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager, (313) 234-5160